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# **Fiscal Council**

**Joe Negron, Chair**  
**Fred Brummer, Vice Chair**

**Thursday, February 9, 2006**  
**212 Knott**  
**1:00 P.M. - 3:00 P.M.**

# **Council Meeting Notice**

## **HOUSE OF REPRESENTATIVES**

**Speaker Allan G. Bense**

### **Fiscal Council**

**Start Date and Time:** Thursday, February 09, 2006 01:00 pm

**End Date and Time:** Thursday, February 09, 2006 03:00 pm

**Location:** 212 Knott Building

**Duration:** 2.00 hrs

#### **Consideration of the following bill(s):**

HB 209 CS Annual Intangible Personal Property Tax by Brummer

HB 487 Commission for the Transportation Disadvantaged by Robaina

Presentation of the Governor's Budget Recommendations


**NOTICE FINALIZED on 01/27/2006 16:02 by SLB**



## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 209 CS      Annual Intangible Personal Property Tax  
**SPONSOR(S):** Brummer and others  
**TIED BILLS:**      **IDEN./SIM. BILLS:** SB 260

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REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Finance & Tax Committee	5 Y, 3 N, w/CS	Levin	Diez-Arguelles
2) Fiscal Council		Levin	Kelly 
3) _____	_____	_____	_____
4) _____	_____	_____	_____
5) _____	_____	_____	_____

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### SUMMARY ANALYSIS

Chapter 199, F.S., imposes two different intangible personal property taxes: an annual (or recurring) tax is imposed at the rate of .5 mill on the value of stocks, bonds, notes, and other intangible personal property having a taxable situs in Florida; as well as a non-recurring tax on obligations for the payment of money secured by liens on Florida real property at the rate of 2 mills. Individuals and businesses are currently obligated to pay an annual (recurring) tax on stocks, bonds, notes, government leaseholds, and interests in limited partnerships registered with the Securities and Exchange Commission (SEC). Current law exempts from the annual (recurring) tax \$250,000 of intangible personal property for each natural person and \$500,000 for each natural person and spouse filing a joint return. The law also provides a \$250,000 exemption for intangible personal property of corporations and other legal entities.

This bill repeals the .5 mill annual (recurring) tax imposed on stocks, bonds, notes, and other intangible property. No change is made to the 2 mills non-recurring tax imposed upon obligations secured by liens on Florida property nor to the .5 mill annual tax imposed on government leaseholds.

The preliminary fiscal impact of the bill on state revenue is a negative \$129.6 million in FY 2006-2007, and a negative \$161.2 million in FY 2007-08.

This bill provides an effective date of January 1, 2007.

## **FULL ANALYSIS**

### **I. SUBSTANTIVE ANALYSIS**

#### **A. HOUSE PRINCIPLES ANALYSIS:**

Ensure lower taxes: After December 31, 2006, Florida taxpayers will no longer be required to pay the annual intangible personal property tax.

#### **B. EFFECT OF PROPOSED CHANGES:**

Current taxes:

Chapter 199, F.S., currently imposes two different intangible personal property taxes: an annual (or recurring) tax is imposed at the rate of .5 mill on the value of stocks, bonds, notes, and other intangible personal property having a taxable situs in Florida; as well as a non-recurring tax on obligations for the payment of money secured by liens on Florida real property at the rate of 2 mills. Individuals and businesses are currently obligated to pay an annual (recurring) tax on stocks, bonds, notes, governmental leaseholds, and interests in limited partnerships registered with the Securities and Exchange Commission (SEC). Current law exempts from the annual (recurring) tax \$250,000 of intangible personal property for each natural person and \$500,000 for each natural person and spouse filing a joint return. The law also provides a \$250,000 exemption for intangible personal property for all other taxpayers, including corporations and other legal entities.

History of the Intangible Taxes:

The Florida Constitution caps the rate of the intangibles tax at 2 mills. In 1992, the rate was raised from 1.5 to 2 mills. In 1998, several significant changes were made to the annual intangibles tax. The minimum amount of the annual tax due was raised from \$5 to \$60. One-third of accounts receivable were exempted from the tax and the Legislature expressed the intent to completely exempt accounts receivable from the tax. In 1999, the Legislature reduced the rate to 1.5 mills and increased the exemption for accounts receivable to two-thirds. In 2000, the Legislature further reduced the rate to 1 mill and completely exempted accounts receivable from this tax. Effective January 2004, the personal exemptions were increased from \$20,000 to \$250,000 for individuals and from \$40,000 to \$500,000 for married couples filing a joint return. In 2005, the Legislature reduced the annual tax to .5 mill, effective January 1, 2006.

Tax changes made by the bill:

This bill eliminates the .5 mill annual (recurring) intangible personal property tax imposed pursuant to Chapter 199, F.S. There are various provisions elsewhere in the Florida Statutes which contain references to the recurring intangible tax, and these references are also repealed. The bill also provides that certain leasehold and other possessory interests in governmental lands will continue to be taxed as intangible personal property pursuant to Chapter 199, F.S., as it existed prior to January 1, 2007. No changes are made to the non-recurring 2 mills tax on notes and obligations secured by liens on Florida realty.

#### **C. SECTION DIRECTORY:**

Section 1. Repeals all of Part I of Chapter 199, Intangible Personal Property Taxes. Also repeals s.199.175, F.S., concerning the taxable situs of property formerly subject to the tax and s.199.185, F.S., which exempts certain intangible property from the annual and non-recurring taxes.

Section 2. Eliminates a reference to s. 199.183 (1), F.S., found in s. 28.35, F.S., the Florida Clerks of Court Operations Corporation.

Section 3. Amends s. 192.0105, F.S., Florida Taxpayer's Bill of Rights, to correct a reference to the right of confidentiality in s. 193.114(5), F.S.

Section 4. Amends s. 192.032, F.S., to eliminate a reference to the situs of intangible personal property and renumber subsequent sections of the statute.

Section 5. Amends s. 192.042, F.S., to eliminate a reference to the date of assessment for intangible personal property.

Section 6. Amends s. 192.091, F.S., to eliminate a reference to commissions on intangible property taxes in a section concerning property appraisers and tax collectors.

Section 7. Amends s. 193.114, F.S., to eliminate the Department of Revenue's duty to promulgate regulations and forms for developing intangible property tax rolls.

Section 8. Amends s. 196.015, F.S., to eliminate the filing of an intangible tax return as evidence of permanent residency.

Section 9. Amends s.196.199(2)(b), F.S., to preserve the intangible tax on leaseholds or other possessory interests defined by s. 199.023(1)(d), F.S. 2005.

Sections 10. Amends s. 199.133, F.S., to eliminate references to the levy of the annual intangible tax.

Sections 11. Eliminates references to the payment of the annual tax contained in s. 199.183, F.S. Amends a reference to leasehold and other possessory interests defined by s. 199.0023(1)(d), F.S. 2005.

Section 12. Eliminates the requirement for brokers to preserve all books and records relating to the information reporting requirements of s. 199.218, F.S.

Section 13. Eliminates references to the failure to file the annual intangible tax return contained in s. 199.232, F.S.

Section 14. Eliminates references to the penalties for failure to pay the annual tax contained in s.199.282, F.S.

Section 15. Amends references in s. 199.292, F.S., to the disposition of revenues from the annual leasehold tax described in s. 199.023(1)(d), F.S. 2005.

Section 16. Amends s. 199.303, F.S., to state legislative intent that all intangible taxes due and owing for calendar year 2006 and prior years be paid, assessed and audited.

Section 17. Eliminates references to the intangible tax in s. 212.02(19), F.S.

Section 18. Amends s. 213.053, F.S., to eliminate confidentiality of information relative to s. 199.1055, F.S.

Section 19. Repeals references to tax exemptions claimed pursuant to s. 199.185(1)(i), F.S., contained within s. 213.054, F.S.

Section 20. Amends s. 213.27, F.S., to eliminate language permitting the DOR to contract with businesses to identify sources of intangible tax liability.

Sections 21 and 22. Eliminate tax credits under ss. 220.1845 and 376.30781, F.S., for annual intangible taxes paid and strike references to Chapter 199, F.S.

Section 23. Amends an exemption found in s. 493.6102, F.S., for security officers of churches and cemeteries, which were previously defined by a reference to s. 199.183(2)(a), F.S.

Section 24. Eliminates a reference to intangible tax as a source of revenue contained within s. 650.05, F.S.

Section 25. Amends a reference in s. 655.071, F.S., to an "international banking facility" from a definition found in s. 199.023, F.S., to a definition found in s. 201.23, F.S.

Section 26. Effective January 1, 2009, amends s. 733.702, F.S., to eliminate language which allowed the Department of Revenue to file claims against an estate for intangibles tax.

Section 27. Permits the Department of Revenue to enact emergency rules to implement the changes made by the bill, once the bill becomes law.

Section 28. Unless otherwise provided in the Act, provides an effective date of January 1, 2007.

## **II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

### **A. FISCAL IMPACT ON STATE GOVERNMENT:**

#### **1. Revenues:**

The bill is estimated to have the following fiscal impacts on government. The Revenue Estimating Conference will meet later this year to adopt an official estimate.

	<b><u>FY 2006-2007</u></b>	<b><u>FY 2007-2008</u></b>
General Revenue	(\$129.6 m)	(\$161.2 m)

#### **2. Expenditures:**

None.

### **B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

#### **1. Revenues**

None:

#### **2. Expenditures:**

None.

### **C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

Individuals and businesses will no longer pay annual intangibles tax.

**D. FISCAL COMMENTS:**

None.

**III. COMMENTS**

**A. CONSTITUTIONAL ISSUES:**

**1. Applicability of Municipality/County Mandates Provision:**

The bill does not require counties or municipalities to spend funds or to take an action requiring the expenditure of funds, does not reduce a county's authority to raise revenues and does not reduce the percentage of a state tax shared with counties or municipalities.

**2. Other:**

**B. RULE-MAKING AUTHORITY:**

The Department of Revenue is given rule making authority to promulgate emergency rules upon the bill becoming law.

**C. DRAFTING ISSUES OR OTHER COMMENTS:**

**IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES**

The Finance & Tax committee adopted five amendments. Four of the amendments changed the language used to reference a currently existing statutory section. The fifth amendment restored to statute language directing the revenues from leaseholds described in s. 199.023(1)(d), F.S., to the local school boards.



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CHAMBER ACTION

The Finance & Tax Committee recommends the following:

**Council/Committee Substitute**

Remove the entire bill and insert:

A bill to be entitled

An act relating to the annual intangible personal property tax; repealing ss. 199.012, 199.023, 199.032, 199.033, 199.042, 199.052, 199.057, 199.062, 199.103, 199.1055, 199.106, 199.175, and 199.185, F.S., relating to the annual intangible personal property tax; amending s. 199.303, F.S.; providing additional legislative intent relating to the annual intangible personal property tax; amending ss. 28.35, 192.0105, 192.032, 192.042, 192.091, 193.114, 196.015, 196.199, 199.133, 199.183, 199.218, 199.232, 199.282, 199.292, 212.02, 213.053, 213.054, 213.27, 220.1845, 376.30781, 493.6102, 650.05, 655.071, and 733.702, F.S., to conform provisions to the repeal of the annual intangible personal property tax; providing for application of certain collection, administration, and enforcement provisions to taxation of certain leaseholds; authorizing the Department of Revenue to adopt emergency implementing rules for a certain time; providing effective dates.

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Be It Enacted by the Legislature of the State of Florida:

Section 1. Sections 199.012, 199.023, 199.032, 199.033, 199.042, 199.052, 199.057, 199.062, 199.103, 199.1055, 199.106, 199.175, and 199.185, Florida Statutes, are repealed.

Section 2. Paragraph (c) of subsection (1) of section 28.35, Florida Statutes, is amended to read:

28.35 Florida Clerks of Court Operations Corporation.--

(1)

(c) ~~For the purposes of s. 199.183(1),~~ The corporation shall be considered a political subdivision of the state and shall be exempt from the corporate income tax. The corporation is not subject to the procurement provisions of chapter 287 and policies and decisions of the corporation relating to incurring debt, levying assessments, and the sale, issuance, continuation, terms, and claims under corporation policies, and all services relating thereto, are not subject to the provisions of chapter 120.

Section 3. Paragraph (a) of subsection (4) of section 192.0105, Florida Statutes, is amended to read:

192.0105 Taxpayer rights.--There is created a Florida Taxpayer's Bill of Rights for property taxes and assessments to guarantee that the rights, privacy, and property of the taxpayers of this state are adequately safeguarded and protected during tax levy, assessment, collection, and enforcement processes administered under the revenue laws of this state. The Taxpayer's Bill of Rights compiles, in one document, brief but

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52 comprehensive statements that summarize the rights and  
53 obligations of the property appraisers, tax collectors, clerks  
54 of the court, local governing boards, the Department of Revenue,  
55 and taxpayers. Additional rights afforded to payors of taxes and  
56 assessments imposed under the revenue laws of this state are  
57 provided in s. 213.015. The rights afforded taxpayers to assure  
58 that their privacy and property are safeguarded and protected  
59 during tax levy, assessment, and collection are available only  
60 insofar as they are implemented in other parts of the Florida  
61 Statutes or rules of the Department of Revenue. The rights so  
62 guaranteed to state taxpayers in the Florida Statutes and the  
63 departmental rules include:

64 (4) THE RIGHT TO CONFIDENTIALITY.--

65 (a) The right to have information kept confidential,  
66 including federal tax information, ad valorem tax returns,  
67 social security numbers, all financial records produced by the  
68 taxpayer, Form DR-219 returns for documentary stamp tax  
69 information, and sworn statements of gross income, copies of  
70 federal income tax returns for the prior year, wage and earnings  
71 statements (W-2 forms), and other documents (see ss. 192.105,  
72 193.074, 193.114(5)~~(5)(6)~~, 195.027(3) and (6), and 196.101(4)(c)).

73 Section 4. Subsections (5), (6), and (7) of section  
74 192.032, Florida Statutes, are amended to read:

75 192.032 Situs of property for assessment purposes.--All  
76 property shall be assessed according to its situs as follows:

77 ~~(5) Intangible personal property, according to the rules~~  
78 ~~laid down in chapter 199.~~

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79        (5)~~(6)~~(a) Notwithstanding the provisions of subsection  
80        (2), personal property used as a marine cargo container in the  
81        conduct of foreign or interstate commerce shall not be deemed to  
82        have acquired a taxable situs within a county when the property  
83        is temporarily halted or stored within the state for a period  
84        not exceeding 180 days.

85        (b) "Marine cargo container" means a nondisposable  
86        receptacle which is of a permanent character, strong enough to  
87        be suitable for repeated use; which is specifically designed to  
88        facilitate the carriage of goods by one or more modes of  
89        transport, one of which shall be by ocean vessel, without  
90        intermediate reloading; and which is fitted with devices  
91        permitting its ready handling, particularly in the transfer from  
92        one transport mode to another. The term "marine cargo container"  
93        includes a container when carried on a chassis but does not  
94        include a vehicle or packaging.

95        (6)~~(7)~~ Notwithstanding any other provision of this  
96        section, tangible personal property used in traveling shows such  
97        as carnivals, ice shows, or circuses shall be deemed to be  
98        physically present or habitually located or typically present  
99        only to the extent the value of such property is multiplied by a  
100        fraction, the numerator of which is the number of days such  
101        property is present in Florida during the taxable year and the  
102        denominator of which is the number of days in the taxable year.  
103        However, railroad property of such traveling shows shall be  
104        taxable under s. 193.085(4)(b) and not under this section.

105        Section 5. Subsection (3) of section 192.042, Florida  
106        Statutes, is amended to read:

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CODING: Words stricken are deletions; words underlined are additions.

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192.042 Date of assessment.--All property shall be assessed according to its just value as follows:

~~(3) Intangible personal property, according to the rules laid down in chapter 199.~~

Section 6. Subsections (5) and (6) of section 192.091, Florida Statutes, are amended to read:

192.091 Commissions of property appraisers and tax collectors.--

(5) ~~Provided, that~~ The provisions of this section shall not apply to commissions on ~~intangible property taxes or~~ drainage district or drainage subdistrict taxes ~~and~~.

(6) ~~If Provided, further, that where~~ any property appraiser or tax collector in the state is receiving compensation for expenses in conducting his or her office or by way of salary pursuant to any act of the Legislature other than the general law fixing compensation of property appraisers, such property appraiser or tax collector may file a declaration in writing with the board of county commissioners of his or her county electing to come under the provisions of this section, and thereupon such property appraiser or tax collector shall be paid compensation in accordance with the provisions hereof, and shall not be entitled to the benefit of the said special or local act. If such property appraiser or tax collector does not so elect, he or she shall continue to be paid such compensation as may now be provided by law for such property appraiser or tax collector.

Section 7. Subsections (4), (5), and (6) of section 193.114, Florida Statutes, are amended to read:

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193.114 Preparation of assessment rolls.--

~~(4) The department shall promulgate regulations and forms for the preparation of the intangible personal property roll to comply with chapter 199.~~

(4)~~(5)~~ For every change made to the assessed or taxable value of a parcel on an assessment roll subsequent to the mailing of the notice provided for in s. 200.069, the property appraiser shall document the reason for such change in the public records of the office of the property appraiser in a manner acceptable to the executive director or the executive director's designee. For every change that decreases the assessed or taxable value of a parcel on an assessment roll between the time of complete submission of the tax roll pursuant to s. 193.1142(3) and mailing of the notice provided for in s. 200.069, the property appraiser shall document the reason for such change in the public records of the office of the property appraiser in a manner acceptable to the executive director or the executive director's designee. Changes made by the value adjustment board are not subject to the requirements of this subsection.

(5)~~(6)~~ For proprietary purposes, including the furnishing or sale of copies of the tax roll under s. 119.07(1), the property appraiser is the custodian of the tax roll and the copies of it which are maintained by any state agency. The department or any state or local agency may use copies of the tax roll received by it for official purposes and shall permit inspection and examination thereof under s. 119.07(1), but is not required to furnish copies of the records. A social security

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163 | number submitted under s. 196.011(1) is confidential and exempt  
164 | from s. 24(a), Art. I of the State Constitution and the  
165 | provisions of s. 119.07(1). A copy of documents containing the  
166 | numbers furnished or sold by the property appraiser, except a  
167 | copy furnished to the department, or a copy of documents  
168 | containing social security numbers provided by the department or  
169 | any state or local agency for inspection or examination by the  
170 | public, must exclude those social security numbers.

171 |       Section 8. Subsection (9) of section 196.015, Florida  
172 | Statutes, is amended to read:

173 |       196.015 Permanent residency; factual determination by  
174 | property appraiser.--Intention to establish a permanent  
175 | residence in this state is a factual determination to be made,  
176 | in the first instance, by the property appraiser. Although any  
177 | one factor is not conclusive of the establishment or  
178 | nonestablishment of permanent residence, the following are  
179 | relevant factors that may be considered by the property  
180 | appraiser in making his or her determination as to the intent of  
181 | a person claiming a homestead exemption to establish a permanent  
182 | residence in this state:

183 |       ~~(9) The previous filing of Florida intangible tax returns~~  
184 | ~~by the applicant.~~

185 |       Section 9. Paragraph (b) of subsection (2) of section  
186 | 196.199, Florida Statutes, is amended to read:

187 |       196.199 Government property exemption.--

188 |       (2) Property owned by the following governmental units but  
189 | used by nongovernmental lessees shall only be exempt from  
190 | taxation under the following conditions:

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(b) Except as provided in paragraph (c), the exemption provided by this subsection shall not apply to those portions of a leasehold or other interest defined by s. 199.023(1)(d), Florida Statutes 2005, subject to the provisions of subsection (7). Such leasehold or other interest shall be taxed only as intangible personal property pursuant to chapter 199, Florida Statutes 2005, if rental payments are due in consideration of such leasehold or other interest. All applicable collection, administration, and enforcement provisions of chapter 199, Florida Statutes 2005, shall apply to taxation of such leaseholds. If no rental payments are due pursuant to the agreement creating such leasehold or other interest, the leasehold or other interest shall be taxed as real property. Nothing in this paragraph shall be deemed to exempt personal property, buildings, or other real property improvements owned by the lessee from ad valorem taxation.

Section 10. Subsection (2) of section 199.133, Florida Statutes, is amended to read:

199.133 Levy of nonrecurring tax; ~~relationship to annual tax.~~ --

(2) The nonrecurring tax shall apply to a note, bond, or other obligation for payment of money only to the extent it is secured by mortgage, deed of trust, or other lien upon real property situated in this state. Where a note, bond, or other obligation is secured by personal property or by real property situated outside this state, as well as by mortgage, deed of trust, or other lien upon real property situated in this state, then the nonrecurring tax shall apply to that portion of the



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219 | note, bond, or other obligation which bears the same ratio to  
220 | the entire principal balance of the note, bond, or other  
221 | obligation as the value of the real property situated in this  
222 | state bears to the value of all of the security; however, if the  
223 | security is solely made up of personal property and real  
224 | property situated in this state, the taxpayer may elect to  
225 | apportion the taxes based upon the value of the collateral, if  
226 | any, to which the taxpayer by law or contract must look first  
227 | for collection. In no event shall the portion of the note, bond,  
228 | or other obligation which is subject to the nonrecurring tax  
229 | exceed in value the value of the real property situated in this  
230 | state which is the security. ~~The portion of a note, bond, or~~  
231 | ~~other obligation which is not subject to the nonrecurring tax~~  
232 | ~~shall be subject to the annual tax unless otherwise exempt.~~

233 |       Section 11. Subsections (1), (3), and (4) of section  
234 | 199.183, Florida Statutes, are amended to read:

235 |       199.183 Taxpayers exempt from ~~annual and~~ nonrecurring  
236 | taxes.--

237 |       (1) Intangible personal property owned by this state or  
238 | any of its political subdivisions or municipalities shall be  
239 | exempt from taxation under this chapter. This exemption does not  
240 | apply to:

241 |       (a) Any leasehold or other interest that is described in  
242 | s. 199.023(1)(d), Florida Statutes 2005; or-

243 |       (b) Property related to the provision of two-way  
244 | telecommunications services to the public for hire by the use of  
245 | a telecommunications facility, as defined in s. 364.02(15), and  
246 | for which a certificate is required under chapter 364, when the

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247 service is provided by any county, municipality, or other  
248 political subdivision of the state. Any immunity of any  
249 political subdivision of the state or other entity of local  
250 government from taxation of the property used to provide  
251 telecommunication services that is taxed as a result of this  
252 paragraph is hereby waived. However, intangible personal  
253 property related to the provision of telecommunications services  
254 provided by the operator of a public-use airport, as defined in  
255 s. 332.004, for the operator's provision of telecommunications  
256 services for the airport or its tenants, concessionaires, or  
257 licensees, and intangible personal property related to the  
258 provision of telecommunications services provided by a public  
259 hospital, are exempt from taxation under this chapter.

260 ~~(3) Every national bank having its principal place of~~  
261 ~~business in another state, but operating a credit card credit~~  
262 ~~application processing, customer service, or collection~~  
263 ~~operation in this state, that is not considered a bank under the~~  
264 ~~provisions of 12 U.S.C. s. 1841(c)(2)(F), is exempt from paying~~  
265 ~~the tax imposed by this chapter on credit card receivables owed~~  
266 ~~to the bank by credit card holders domiciled outside this state.~~

267 ~~(4) Intangible personal property that is owned, managed,~~  
268 ~~or controlled by a trustee of a trust is exempt from annual tax~~  
269 ~~under this chapter. This exemption does not exempt from annual~~  
270 ~~tax a resident of this state who has a taxable beneficial~~  
271 ~~interest, as defined in s. 199.023, in a trust.~~

272 Section 12. Section 199.218, Florida Statutes, is amended  
273 to read:

274 199.218 Books and records.--

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~~(1)~~ Each taxpayer shall retain all books and other records necessary to identify the taxpayer's intangible personal property and to determine any tax due under this chapter, as well as all books and other records otherwise required by rule of the department with respect to any such tax, until the department's power to make an assessment with respect to such tax has terminated under s. 95.091(3).

~~(2) Each broker subject to the provisions of s. 199.062 shall preserve all books and other records relating to the information reported under s. 199.062 or otherwise required by rule of the department for a period of 3 years from the due date of the report.~~

Section 13. Paragraph (a) of subsection (1) and subsection (3) of section 199.232, Florida Statutes, are amended to read:  
199.232 Powers of department.--

(1)(a) The department may audit the books and records of any person to determine whether ~~an annual tax or~~ a nonrecurring tax has been properly paid.

(3) With or without an audit, the department may assess any tax deficiency resulting from nonpayment or underpayment of the tax, as well as any applicable interest and penalties. The department shall assess on the basis of the best information available to it, including estimates based on the best information available to it if the taxpayer fails to permit inspection of the taxpayer's records, ~~fails to file an annual return,~~ files a grossly incorrect return, or files a false and fraudulent return.

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Section 14. Subsections (2), (3), (4), (6), and (8) of section 199.282, Florida Statutes, are amended, and subsections (5), (7), and (9) of that section are renumbered as subsections (4), (5), and (7), respectively, to read:

199.282 Penalties for violation of this chapter.--

(2) If any ~~annual or~~ nonrecurring tax is not paid by the statutory due date, then despite any extension granted under s. 199.232(6), interest shall run on the unpaid balance from such due date until paid at the rate of 12 percent per year.

(3)~~(a)~~ If any ~~annual or~~ nonrecurring tax is not paid by the due date, a delinquency penalty shall be charged. The delinquency penalty shall be 10 percent of the delinquent tax for each calendar month or portion thereof from the due date until paid, up to a limit of 50 percent of the total tax not timely paid.

~~(b) If any annual tax return required by this chapter is not filed by the due date, a penalty of 10 percent of the tax due with the return shall be charged for each calendar month or portion thereof during which the return remains unfiled, up to a limit of 50 percent of the total tax due.~~

~~For any penalty assessed under this subsection, the combined total for all penalties assessed under paragraphs (a) and (b) shall not exceed 10 percent per calendar month, up to a limit of 50 percent of the total tax due.~~

~~(4) If an annual tax return is filed and property is either omitted from it or undervalued, then a specific penalty shall be charged. The specific penalty shall be 10 percent of~~

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~~the tax attributable to each omitted item or to each undervaluation. No delinquency or late filing penalty shall be charged with respect to any undervaluation.~~

~~(6) Late reporting penalties shall be imposed as follows:~~

~~(a) A penalty of \$100 upon any corporation that does not timely file a written notice required under s. 199.057(2)(c).~~

~~(b) An initial penalty of \$10 per customer position statement, plus an additional penalty of the greater of 1 percent of the initial penalty or \$50 for each month or portion of a month, from the date due until filing is made, upon any security dealer or investment adviser who does not timely file or fails to file the statements required by s. 199.062(1). The submission of a position statement that does not comply with the department's specifications and instructions or the submission of an inaccurate position statement is not a timely filing. The department shall notify any security dealer or investment adviser who fails to timely file the required statements. The minimum penalty imposed upon a security dealer or investment adviser under this paragraph is \$100.~~

~~(6)(8)~~ Any person who fails or refuses to ~~file an annual return, or who fails or refuses to make records available for inspection, when requested to do so by the department is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.~~

Section 15. Section 199.292, Florida Statutes, is amended to read:

199.292 Disposition of intangible personal property taxes.--All intangible personal property taxes collected

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pursuant to this chapter, except for revenues derived from the annual tax on a leasehold described in s. 199.023(1)(d), Florida Statutes 2005, shall be deposited into the General Revenue Fund. Revenues derived from the annual tax on a leasehold described in s. 199.023(1)(d), Florida Statutes 2005, shall be returned to the local school board for the county in which the property subject to the leasehold is situated.

Section 16. Subsection (3) is added to section 199.303, Florida Statutes, to read:

199.303 Declaration of legislative intent.--

(3) It is hereby declared to be the specific intent of the Legislature that all annual intangible personal property taxes imposed as provided by law for calendar years 2006 and prior shall remain in full force and effect during the period specified by s. 95.091 for the year in which the tax was due. It is further the intent of the Legislature that the department continue to assess and collect all taxes due to the state under such provisions for all periods available for assessment, as provided for the year in which tax was due by s. 95.091.

Section 17. Subsection (19) of section 212.02, Florida Statutes, is amended to read:

212.02 Definitions.--The following terms and phrases when used in this chapter have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

(19) "Tangible personal property" means and includes personal property which may be seen, weighed, measured, or touched or is in any manner perceptible to the senses, including

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386 | electric power or energy, boats, motor vehicles and mobile homes  
387 | as defined in s. 320.01(1) and (2), aircraft as defined in s.  
388 | 330.27, and all other types of vehicles. The term "tangible  
389 | personal property" does not include stocks, bonds, notes,  
390 | insurance, or other obligations or securities; ~~intangibles as~~  
391 | ~~defined by the intangible tax law of the state,~~ or pari-mutuel  
392 | tickets sold or issued under the racing laws of the state.

393 |       Section 18. Paragraph (p) of subsection (7) and paragraph  
394 | (a) of subsection (14) of section 213.053, Florida Statutes, are  
395 | amended to read:

396 |       213.053 Confidentiality and information sharing.--

397 |       (7) Notwithstanding any other provision of this section,  
398 | the department may provide:

399 |       (p) Information relative to ss. ~~199.1055,~~ 220.1845, and  
400 | 376.30781 to the Department of Environmental Protection in the  
401 | conduct of its official business.

402 |  
403 | Disclosure of information under this subsection shall be  
404 | pursuant to a written agreement between the executive director  
405 | and the agency. Such agencies, governmental or nongovernmental,  
406 | shall be bound by the same requirements of confidentiality as  
407 | the Department of Revenue. Breach of confidentiality is a  
408 | misdemeanor of the first degree, punishable as provided by s.  
409 | 775.082 or s. 775.083.

410 |       (14)(a) Notwithstanding any other provision of this  
411 | section, the department shall, subject to the safeguards  
412 | specified in paragraph (c), disclose to the Division of  
413 | Corporations of the Department of State the name, address,

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federal employer identification number, and duration of tax filings with this state of all corporate or partnership entities which are not on file or have a dissolved status with the Division of Corporations and which have filed tax returns pursuant to ~~either chapter 199 or~~ chapter 220.

Section 19. Section 213.054, Florida Statutes, is amended to read:

213.054 Persons claiming tax exemptions or deductions; annual report.--The Department of Revenue shall be responsible for monitoring the utilization of ~~tax exemptions and tax~~ deductions authorized pursuant to chapter 81-179, Laws of Florida. On or before September 1 of each year, the department shall report to the Chief Financial Officer the names and addresses of all persons who have claimed ~~an exemption pursuant to s. 199.185(1)(i) or~~ a deduction pursuant to s. 220.63(5).

Section 20. Section 213.27, Florida Statutes, is amended to read:

213.27 Contracts with debt collection agencies and certain vendors.--

(1) The Department of Revenue may, for the purpose of collecting any delinquent taxes due from a taxpayer, including taxes for which a bill or notice has been generated, contract with any debt collection agency or attorney doing business within or without this state for the collection of such delinquent taxes, including penalties and interest thereon. The department may also share confidential information pursuant to the contract necessary for the collection of delinquent taxes and taxes for which a billing or notice has been generated.



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442 Contracts will be made pursuant to chapter 287. The taxpayer  
443 must be notified by mail by the department, its employees, or  
444 its authorized representative at least 30 days prior to  
445 commencing any litigation to recover any delinquent taxes. The  
446 taxpayer must be notified by mail by the department at least 30  
447 days prior to the initial assignment by the department of the  
448 taxpayer's account for the collection of any taxes by the debt  
449 collection agency.

450       ~~(2) The department may enter into contracts with any~~  
451 ~~individual or business for the purpose of identifying intangible~~  
452 ~~personal property tax liability. Contracts may provide for the~~  
453 ~~identification of assets subject to the tax on intangible~~  
454 ~~personal property, the determination of value of such property,~~  
455 ~~the requirement for filing a tax return and the collection of~~  
456 ~~taxes due, including applicable penalties and interest thereon.~~  
457 ~~The department may share confidential information pursuant to~~  
458 ~~the contract necessary for the identification of taxable~~  
459 ~~intangible personal property. Contracts shall be made pursuant~~  
460 ~~to chapter 287. The taxpayer must be notified by mail by the~~  
461 ~~department at least 30 days prior to the department assigning~~  
462 ~~identification of intangible personal property to an individual~~  
463 ~~or business.~~

464       (2)(3) Any contract may provide, in the discretion of the  
465 executive director of the Department of Revenue, the manner in  
466 which the compensation for such services will be paid. Under  
467 standards established by the department, such compensation shall  
468 be added to the amount of the tax and collected as a part

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thereof by the agency or deducted from the amount of tax,  
penalty, and interest actually collected.

(3)~~(4)~~ All funds collected under the terms of the  
contract, less the fees provided in the contract, shall be  
remitted to the department within 30 days from the date of  
collection from a taxpayer. Forms to be used for such purpose  
shall be prescribed by the department.

(4)~~(5)~~ The department shall require a bond from the debt  
collection agency ~~or the individual or business contracted with~~  
~~under subsection (2)~~ not in excess of \$100,000 guaranteeing  
compliance with the terms of the contract. However, a bond of  
\$10,000 is required from a debt collection agency if the agency  
does not actually collect and remit delinquent funds to the  
department.

(5)~~(6)~~ The department may, for the purpose of ascertaining  
the amount of or collecting any taxes due from a person doing  
mail order business in this state, contract with any auditing  
agency doing business within or without this state for the  
purpose of conducting an audit of such mail order business;  
however, such audit agency may not conduct an audit on behalf of  
the department of any person domiciled in this state, person  
registered for sales and use tax purposes in this state, or  
corporation filing a Florida corporate tax return, if any such  
person or corporation objects to such audit in writing to the  
department and the auditing agency. The department shall notify  
the taxpayer by mail at least 30 days before the department  
assigns the collection of such taxes.

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496        (6)~~(7)~~ Confidential information shared by the department  
497 with debt collection or auditing agencies ~~or individuals or~~  
498 ~~businesses with which the department has contracted under~~  
499 ~~subsection (2)~~ is exempt from the provisions of s. 119.07(1),  
500 and debt collection or auditing agencies ~~and individuals or~~  
501 ~~businesses with which the department has contracted under~~  
502 ~~subsection (2)~~ shall be bound by the same requirements of  
503 confidentiality as the Department of Revenue. Breach of  
504 confidentiality is a misdemeanor of the first degree, punishable  
505 as provided by ss. 775.082 and 775.083.

506        (7)~~(8)~~(a) The executive director of the department may  
507 enter into contracts with private vendors to develop and  
508 implement systems to enhance tax collections where compensation  
509 to the vendors is funded through increased tax collections. The  
510 amount of compensation paid to a vendor shall be based on a  
511 percentage of increased tax collections attributable to the  
512 system after all administrative and judicial appeals are  
513 exhausted, and the total amount of compensation paid to a vendor  
514 shall not exceed the maximum amount stated in the contract.

515        (b) A person acting on behalf of the department under a  
516 contract authorized by this subsection does not exercise any of  
517 the powers of the department, except that the person is an agent  
518 of the department for the purposes of developing and  
519 implementing a system to enhance tax collection.

520        (c) Disclosure of information under this subsection shall  
521 be pursuant to a written agreement between the executive  
522 director and the private vendors. The vendors shall be bound by  
523 the same requirements of confidentiality as the department.

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Breach of confidentiality is a misdemeanor of the first degree,  
punishable as provided in s. 775.082 or s. 775.083.

Section 21. Subsection (1) and paragraphs (b) and (c) of  
subsection (3) of section 220.1845, Florida Statutes, are  
amended to read:

220.1845 Contaminated site rehabilitation tax credit.--

(1) AUTHORIZATION FOR TAX CREDIT; LIMITATIONS.--

(a) A credit in the amount of 35 percent of the costs of  
voluntary cleanup activity that is integral to site  
rehabilitation at the following sites is available against any  
tax due for a taxable year under this chapter:

1. A drycleaning-solvent-contaminated site eligible for  
state-funded site rehabilitation under s. 376.3078(3);

2. A drycleaning-solvent-contaminated site at which  
cleanup is undertaken by the real property owner pursuant to s.  
376.3078(11), if the real property owner is not also, and has  
never been, the owner or operator of the drycleaning facility  
where the contamination exists; or

3. A brownfield site in a designated brownfield area under  
s. 376.80.

(b) A tax credit applicant, or multiple tax credit  
applicants working jointly to clean up a single site, may not be  
granted more than \$250,000 per year in tax credits for each site  
voluntarily rehabilitated. Multiple tax credit applicants shall  
be granted tax credits in the same proportion as their  
contribution to payment of cleanup costs. Subject to the same  
conditions and limitations as provided in this section, a  
municipality, county, or other tax credit applicant which

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552 voluntarily rehabilitates a site may receive not more than  
553 \$250,000 per year in tax credits which it can subsequently  
554 transfer subject to the provisions in paragraph (g) ~~(h)~~.

555       (c) If the credit granted under this section is not fully  
556 used in any one year because of insufficient tax liability on  
557 the part of the corporation, the unused amount may be carried  
558 forward for a period not to exceed 5 years. The carryover credit  
559 may be used in a subsequent year when the tax imposed by this  
560 chapter for that year exceeds the credit for which the  
561 corporation is eligible in that year under this section after  
562 applying the other credits and unused carryovers in the order  
563 provided by s. 220.02(8). Five years after the date a credit is  
564 granted under this section, such credit expires and may not be  
565 used. However, if during the 5-year period the credit is  
566 transferred, in whole or in part, pursuant to paragraph (g) ~~(h)~~,  
567 each transferee has 5 years after the date of transfer to use  
568 its credit.

569       (d) A taxpayer that files a consolidated return in this  
570 state as a member of an affiliated group under s. 220.131(1) may  
571 be allowed the credit on a consolidated return basis up to the  
572 amount of tax imposed upon the consolidated group.

573       ~~(e) A taxpayer that receives credit under s. 199.1055 is~~  
574 ~~ineligible to receive credit under this section in a given tax~~  
575 ~~year.~~

576       (e) ~~(f)~~ A tax credit applicant that receives state-funded  
577 site rehabilitation under s. 376.3078(3) for rehabilitation of a  
578 drycleaning-solvent-contaminated site is ineligible to receive  
579 credit under this section for costs incurred by the tax credit

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580 | applicant in conjunction with the rehabilitation of that site  
581 | during the same time period that state-administered site  
582 | rehabilitation was underway.

583 |        (f)~~(g)~~ The total amount of the tax credits which may be  
584 | granted under this section ~~and s. 199.1055~~ is \$2 million  
585 | annually.

586 |        (g)~~(h)~~ 1. Tax credits that may be available under this  
587 | section to an entity eligible under s. 376.30781 may be  
588 | transferred after a merger or acquisition to the surviving or  
589 | acquiring entity and used in the same manner and with the same  
590 | limitations.

591 |        2. The entity or its surviving or acquiring entity as  
592 | described in subparagraph 1., may transfer any unused credit in  
593 | whole or in units of no less than 25 percent of the remaining  
594 | credit. The entity acquiring such credit may use it in the same  
595 | manner and with the same limitation as described in this  
596 | section. Such transferred credits may not be transferred again  
597 | although they may succeed to a surviving or acquiring entity  
598 | subject to the same conditions and limitations as described in  
599 | this section.

600 |        3. In the event the credit provided for under this section  
601 | is reduced either as a result of a determination by the  
602 | Department of Environmental Protection or an examination or  
603 | audit by the Department of Revenue, such tax deficiency shall be  
604 | recovered from the first entity, or the surviving or acquiring  
605 | entity, to have claimed such credit up to the amount of credit  
606 | taken. Any subsequent deficiencies shall be assessed against any

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entity acquiring and claiming such credit, or in the case of multiple succeeding entities in the order of credit succession.

(h)~~(i)~~ In order to encourage completion of site rehabilitation at contaminated sites being voluntarily cleaned up and eligible for a tax credit under this section, the tax credit applicant may claim an additional 10 percent of the total cleanup costs, not to exceed \$50,000, in the final year of cleanup as evidenced by the Department of Environmental Protection issuing a "No Further Action" order for that site.

(3) ADMINISTRATION; AUDIT AUTHORITY; TAX CREDIT FORFEITURE.--

(b) In addition to its existing audit and investigation authority relating to ~~chapter 199~~ and this chapter, the Department of Revenue may perform any additional financial and technical audits and investigations, including examining the accounts, books, or records of the tax credit applicant, which are necessary to verify the site rehabilitation costs included in a tax credit return and to ensure compliance with this section. The Department of Environmental Protection shall provide technical assistance, when requested by the Department of Revenue, on any technical audits performed pursuant to this section.

(c) It is grounds for forfeiture of previously claimed and received tax credits if the Department of Revenue determines, as a result of either an audit or information received from the Department of Environmental Protection, that a taxpayer received tax credits pursuant to this section to which the taxpayer was not entitled. In the case of fraud, the taxpayer shall be

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635 prohibited from claiming any future tax credits under this  
636 section ~~or s. 199.1055~~.

637       1. The taxpayer is responsible for returning forfeited tax  
638 credits to the Department of Revenue, and such funds shall be  
639 paid into the General Revenue Fund of the state.

640       2. The taxpayer shall file with the Department of Revenue  
641 an amended tax return or such other report as the Department of  
642 Revenue prescribes by rule and shall pay any required tax within  
643 60 days after the taxpayer receives notification from the  
644 Department of Environmental Protection pursuant to s. 376.30781  
645 that previously approved tax credits have been revoked or  
646 modified, if uncontested, or within 60 days after a final order  
647 is issued following proceedings involving a contested revocation  
648 or modification order.

649       3. A notice of deficiency may be issued by the Department  
650 of Revenue at any time within 5 years after the date the  
651 taxpayer receives notification from the Department of  
652 Environmental Protection pursuant to s. 376.30781 that  
653 previously approved tax credits have been revoked or modified.  
654 If a taxpayer fails to notify the Department of Revenue of any  
655 change in its tax credit claimed, a notice of deficiency may be  
656 issued at any time. In either case, the amount of any proposed  
657 assessment set forth in such notice of deficiency shall be  
658 limited to the amount of any deficiency resulting under this  
659 section from the recomputation of the taxpayer's tax for the  
660 taxable year.

661       4. Any taxpayer that fails to report and timely pay any  
662 tax due as a result of the forfeiture of its tax credit is in



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663 | violation of this section and is subject to applicable penalty  
664 | and interest.

665 |       Section 22. Paragraph (a) of subsection (2) and  
666 | subsections (3), (8), and (12) of section 376.30781, Florida  
667 | Statutes, are amended to read:

668 |       376.30781 Partial tax credits for rehabilitation of  
669 | drycleaning-solvent-contaminated sites and brownfield sites in  
670 | designated brownfield areas; application process; rulemaking  
671 | authority; revocation authority.--

672 |       (2)(a) A credit in the amount of 35 percent of the costs  
673 | of voluntary cleanup activity that is integral to site  
674 | rehabilitation at the following sites is allowed pursuant to s.  
675 | ~~ss. 199.1055~~ and 220.1845:

676 |       1. A drycleaning-solvent-contaminated site eligible for  
677 | state-funded site rehabilitation under s. 376.3078(3);

678 |       2. A drycleaning-solvent-contaminated site at which  
679 | cleanup is undertaken by the real property owner pursuant to s.  
680 | 376.3078(11), if the real property owner is not also, and has  
681 | never been, the owner or operator of the drycleaning facility  
682 | where the contamination exists; or

683 |       3. A brownfield site in a designated brownfield area under  
684 | s. 376.80.

685 |       (3) The Department of Environmental Protection shall be  
686 | responsible for allocating the tax credits provided for in s.  
687 | ~~ss. 199.1055~~ and 220.1845, not to exceed a total of \$2 million  
688 | in tax credits annually.

689 |       (8) On or before March 1, the Department of Environmental  
690 | Protection shall inform each eligible tax credit applicant of

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691 the amount of its partial tax credit and provide each eligible  
692 tax credit applicant with a tax credit certificate that must be  
693 submitted with its tax return to the Department of Revenue to  
694 claim the tax credit or be transferred pursuant to ~~s.~~  
695 ~~199.1055(1)(g) or~~ s. 220.1845(1)(h). Credits will not result in  
696 the payment of refunds if total credits exceed the amount of tax  
697 owed.

698 (12) A tax credit applicant who receives state-funded site  
699 rehabilitation under s. 376.3078(3) for rehabilitation of a  
700 drycleaning-solvent-contaminated site is ineligible to receive a  
701 tax credit under ~~s. 199.1055 or~~ s. 220.1845 for costs incurred  
702 by the tax credit applicant in conjunction with the  
703 rehabilitation of that site during the same time period that  
704 state-administered site rehabilitation was underway.

705 Section 23. Subsection (13) of section 493.6102, Florida  
706 Statutes, is amended to read:

707 493.6102 Inapplicability of this chapter.--This chapter  
708 shall not apply to:

709 (13) Any individual employed as a security officer by a  
710 church or ecclesiastical or denominational organization having  
711 an established physical place of worship in this state at which  
712 nonprofit religious services and activities are regularly  
713 conducted or by a church cemetery ~~religious institution as~~  
714 ~~defined in s. 199.183(2)(a)~~ to provide security on the  
715 ~~institution~~ property of the organization or cemetery, and who  
716 does not carry a firearm in the course of her or his duties.

717 Section 24. Paragraph (b) of subsection (4) of section  
718 650.05, Florida Statutes, is amended to read:

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719           650.05 Plans for coverage of employees of political  
720 subdivisions.--

721           (4)

722           (b) The grants-in-aid and other revenue referred to in  
723 paragraph (a) specifically include, but are not limited to,  
724 minimum foundation program grants to public school districts and  
725 community colleges; gasoline, motor fuel, ~~intangible~~, cigarette,  
726 racing, and insurance premium taxes distributed to political  
727 subdivisions; and amounts specifically appropriated as grants-  
728 in-aid for mental health, mental retardation, and mosquito  
729 control programs.

730           Section 25. Subsection (1) of section 655.071, Florida  
731 Statutes, is amended to read:

732           655.071 International banking facilities; definitions;  
733 notice before establishment.--

734           (1) "International banking facility" means a set of asset  
735 and liability accounts segregated on the books and records of a  
736 banking organization, as that term is defined in s. 201.23  
737 ~~199.023~~, that includes only international banking facility  
738 deposits, borrowings, and extensions of credit, as those terms  
739 shall be defined by the commission pursuant to subsection (2).

740           Section 26. Effective January 1, 2009, subsections (5) and  
741 (6) of section 733.702, Florida Statutes, are amended to read:

742           733.702 Limitations on presentation of claims.--

743           ~~(5) The Department of Revenue may file a claim against the~~  
744 ~~estate of a decedent for taxes due under chapter 199 after the~~  
745 ~~expiration of the time for filing claims provided in subsection~~  
746 ~~(1), if the department files its claim within 30 days after the~~

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~~service of the inventory. Upon filing of the estate tax return with the department as provided in s. 198.13, or to the extent the inventory or estate tax return is amended or supplemented, the department has the right to file a claim or to amend its previously filed claim within 30 days after service of the estate tax return, or an amended or supplemented inventory or filing of an amended or supplemental estate tax return, as to the additional information disclosed.~~

~~(5)(6)~~ Nothing in this section shall extend the limitations period set forth in s. 733.710.

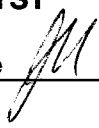

Section 27. Effective upon this act becoming a law, the executive director of the Department of Revenue may adopt emergency rules under ss. 120.536(1) and 120.54, Florida Statutes, to implement chapter 199, Florida Statutes, and all conditions are deemed met for the adoption of such rules. Notwithstanding any other provision of law, such emergency rules shall remain effective for 6 months after the date of adoption and may be renewed during the pendency of procedures to adopt rules addressing the subject of the emergency rules.

Section 28. Except as otherwise expressly provided in this act, this act shall take effect January 1, 2007.

HB 487

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 487 Commission for the Transportation Disadvantaged  
**SPONSOR(S):** Robaina and others  
**TIED BILLS:** **IDEN./SIM. BILLS:** SB 634

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Fiscal Council		McAuliffe 	Kelly 
2) State Infrastructure Council			
3) _____			
4) _____			
5) _____			

### SUMMARY ANALYSIS

HB 487 makes a number of administrative changes to the Commission for the Transportation Disadvantaged (Commission). The bill reduces the membership of the Commission from 27 to 7 persons, and provides all of the members would be appointed by the Governor.

The bill also provides:

- Commissioners must represent the needs of transportation disadvantaged persons statewide, and may not subordinate the transportation needs of persons statewide to favor a specific region of the state.
- Commissioners, other than elected officials, may not within the five years immediately before the appointment, or during his or her term on the Commission, have or have had a financial relationship with, or represent or have represented as a lobbyist as defined in s. 11.045, F.S., certain transportation related entities.
- The Commission must create a technical advisory committee, and set the size and membership to include representatives of private paratransit providers. The technical advisory committee would advise the Commission on issues of importance to the state, including information, advice and direction regarding the coordination of services for the transportation disadvantaged. In addition, the Commission may appoint other technical advisory committees.

In addition, the bill requires each Commission candidate, prior to accepting the appointment, to undergo a security background investigation. A complete set of fingerprints taken by an authorized law enforcement agency must be filed with the Florida Department of Transportation (DOT). The fingerprints must be submitted to the Department of Law Enforcement for state processing, and to the Federal Bureau of Investigation for federal processing.

The bill also directs the Commission to develop a funding methodology or formula that equitably distributes funds under its control using certain criteria.

The bill does not raise any apparent constitutional or other legal issues, nor does the bill significantly impact state revenues or expenditures.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. HOUSE PRINCIPLES ANALYSIS:

**Provide Limited Government:** The bill reduces from 27 to 7 the number of members on the Commission for the Transportation Disadvantaged.

#### B. EFFECT OF PROPOSED CHANGES:

##### Current Situation

The Commission for the Transportation Disadvantaged, created in 1979 by the Legislature pursuant to Part I of Chapter 427, F.S., coordinates a network of local and state programs providing transportation services for elderly, disabled, and low-income citizens. The mission of the Commission is to ensure the availability of efficient, cost-effective and quality transportation services for transportation disadvantaged persons. The Commission also administers the Transportation Disadvantaged (TD) Trust Fund. The TD Trust Fund is used to subsidize trips, provide funding for TD eligible persons not otherwise funded, and provide for administrative expenses.

Over the years, the Legislature has modified the program's administrative structure, program responsibilities, and funding. A 27-member Commission sets state policy and oversees its statewide implementation, and distributes a share of its budgeted funds to the local providers, based on the Commission's criteria. Commissioners represent a broad spectrum of interested parties, including social service agencies, a public transit association, various citizens' advocacy groups from rural and urban areas, transportation providers, the non-transportation business community, and DOT. Appointments to the Commission are made by the Governor, the President of the Senate, and the Speaker of the House of Representatives.

The current Commission membership includes:

- The secretary of the DOT or the secretary's designee.
- The secretary of the Department of Children and Family Services or the secretary's designee.
- The Commissioner of Education or the commissioner's designee.
- The director of the Agency for Workforce Innovation or the director's designee.
- The executive director of the Department of Veterans' Affairs or the executive director's designee.
- The secretary of the Department of Elderly Affairs or the secretary's designee.
- The director of the Agency for Health Care Administration (AHCA) or the director's designee.
- A representative of the Florida Association for Community Action, who serves at the pleasure of that association.
- A representative of the Florida Transit Association, who serves at the pleasure of that association.
- A person over the age of 60 who is a member of a recognized statewide organization representing elderly Floridians. Such person is appointed by the Governor for a term of four years to represent elderly Floridians.
- A person with a disability who is a member of a recognized statewide organization representing Floridians with disabilities. Such person is appointed by the Governor for a term of four years to represent Floridians with disabilities.
- Two citizen advocate representatives, appointed by the Governor for a term of four years, one representing rural citizens and one representing urban citizens.
- A representative of the community transportation coordinators appointed by the Governor for a term of four years, to represent all community transportation coordinators.
- One member of the Early Childhood Council. Such person is appointed by the Governor for a term of four years to represent maternal and child health care.

- Two representatives of current private for-profit or private not-for-profit transportation operators each of which have a minimum of five years of continuous experience operating a broad-based system of ambulatory and wheelchair/stretchers type transportation, utilizing not less than 50 vehicles and including dispatch and scheduling responsibilities. Such persons are appointed by the Commissioner of Agriculture to serve a term of four years.
- Four representatives of current private for-profit or private not-for-profit transportation operators, each of which having a minimum of five years of continuous experience operating a broad-based system of ambulatory and wheelchair or stretchers-type transportation, utilizing not less than 50 vehicles, and including dispatch and scheduling responsibilities. Such persons are appointed by the Commissioner of Agriculture to serve a term of four years.
- Six citizens representing the nontransportation business community of the state, three members appointed by the President of the Senate and three members appointed by the Speaker of the House of Representatives.

The commission is housed within DOT for administrative purposes only.

Florida's 67 counties are divided into 50 TD service areas. While most urban counties are single-county service areas, some rural counties are organized into multi-county service areas. All 67 counties have some level of TD service for elderly, disabled, or needy residents. According to the Commission's most recent annual report, in fiscal year 2004-2005 almost 50.1 million trips were provided to clients, about a 12-percent decrease over fiscal year 2003-2004. There were 841,190 passengers served last fiscal year. About half of the trips are to doctor's offices or medical facilities, and transportation to educational or training facilities ranks second.

Total funding for TD services in Florida – from public and private sources – was \$353 million in fiscal year 2004-2005. Not all of those funds were expended directly by the Commission, which relied, until recently, on an average of \$25 million to \$35 million which it received from four statutory program earmarks and special appropriations from the Legislature.

For fiscal year 2004-2005, the state appropriation was \$38 million. As of November 1, 2004, with the signing of a memorandum of agreement with AHCA, the Commission also has spending authority over an estimated \$68 million in Medicaid funds for non-emergency transportation (NET) services for Medicaid clients.

The Commission coordinates TD services at the state and local level. At the statewide level, the Commission assists communities in establishing coordinated transportation systems; manages contracts and memoranda of agreement; ensures state agencies purchase transportation services from within the TD coordinated system, unless a more cost-effective provider outside the coordinated system can be found by the purchasing agency; and approves the local entities that manage the delivery of transportation services to eligible clients.

At the local level, the TD program is implemented through a network of planning agencies, local advisory boards, community transportation coordinators (CTC's), and transportation operators. Local planning agencies, such as a metropolitan planning organization (MPO) or regional planning council, appoint and staff each local coordinating board. A local elected official chairs each coordinating board. These local boards also recommend the CTC to the Commission.

The CTC's are the entities responsible for the actual arrangement or delivery of transportation services within their local service area. A CTC may be a government entity, a transit agency, a private not-for-profit agency or a for-profit company. A CTC may function as a sole-source provider of TD services, or it may broker part or all of the trips to transportation operators. The Commission enters into a memorandum of agreement for services with a CTC. This agreement identifies the anticipated service population, service area, information regarding any subcontractors, and rates for services.



The Commission has also recently assumed responsibility and funding for the Medicaid NET services. As managers of the NET program, the Commission identifies and enters into agreements with subcontracted transportation providers, and pays them a monthly lump-sum amount. These subcontracted transportation providers in turn use these funds to pay the local transportation operators providing the services.

According to the Commission, when AHCA transferred to the commission only \$68 million in Medicaid funds, rather than the \$75 million the Commission had budgeted for NET services, the Commission readjusted its formula to address the budget cut. The final allocation resulted in an approximate 11-percent reduction for all counties for the November 1, 2005 – June 30, 2006 time period.

### Effects of Proposed Changes

The bill makes a number of administrative changes to the Commission. First, it significantly restructures the Commission by reducing the Commission's membership from 27 to 7 persons. The new members would include seven voting members appointed by the Governor. Two of the members must be persons with a disability and who use the transportation disadvantaged system. Five of the members must have significant experience in the operation of a business. In addition, when making an appointment, the bill provides it is the intent of the Legislature that the Governor select persons who reflect the broad diversity of the business community in the state, as well as the racial, ethnic, geographical, and gender diversity of the population of this state.

The following serve as ex officio, nonvoting advisors to the Commission:

- The DOT secretary or a designee;
- The Department of Children and Family Services secretary or designee;
- The Agency for Workforce Innovation director or designee;
- The Department of Veteran's Affairs executive director or designee;
- The Department of Elderly Affairs secretary or designee;
- The AHCA director or designee;
- The Agency for Persons with Disabilities director or designee; and
- An elected local government official who is appointed by the Governor.

As a result of reducing the membership of the Commission, the bill revises the number of Commission members to five which are needed to constitute a quorum. In addition, the bill provides the chair of the Commission would be appointed by the Governor.

The bill also specifies a number of requirements on TD commissioners. These are:

- Commissioners must represent the needs of transportation disadvantaged persons statewide, and they may not subordinate the transportation needs of persons statewide to favor a specific region of the state.
- Appointed commissioners serve a term of four years and may be reappointed for one additional four-year term.
- Commissioners must be residents of Florida and registered voters.
- Commissioners, other than elected officials, may not within the five years immediately before the appointment, or during his or her term on the Commission, have or have had a financial relationship with, or represent or have represented as a lobbyist as defined in s. 11.045, F.S., the following:
  - A transportation operator;
  - A community transportation coordinator;
  - A metropolitan planning organization;
  - A designated official planning agency;
  - A purchaser agency;
  - A local coordinating board;
  - A broker of transportation; or

- A provider of transportation services.
- The Commission is required to create a technical advisory committee, and set the size and membership to include representatives of private paratransit providers. The technical advisory committee would advise the Commission on issues of importance to the state, including information, advice and direction regarding the coordination of services for the transportation disadvantaged. In addition, the Commission may appoint other technical advisory committees whose members may include representatives of community transportation coordinators; metropolitan planning organizations; regional planning councils; experts in insurance, marketing, economic development, or financial planning; and users of the transportation disadvantaged system, or their relatives, parents, guardians, or service professionals who tend to their needs.

In addition, the bill requires each appointed Commission candidate, prior to accepting the appointment, to undergo a security background investigation pursuant to s. 435.04, F.S. A complete set of fingerprints taken by an authorized law enforcement agency must be filed with DOT. The fingerprints must be submitted to the Department of Law Enforcement for state processing, and to the Federal Bureau of Investigation for federal processing. The DOT must screen the background results and report to the Commission any candidate who fails to meet the level 2 screening standards of s. 435.04, F.S., which list 47 criminal offenses. Any candidate found through fingerprint processing to have failed to meet such standards may not be appointed as a member of the Commission. Finally, the bill requires the costs of the background screening to be paid by DOT or the appointed candidate. Currently, the FDLE fingerprint check costs \$23 and the FBI fingerprint check costs \$24.

The bill directs the Commission to develop a funding methodology or formula that equitably distributes funds, to include Medicaid nonemergency funds, under its control using certain criteria, and which ensures not only the actual costs of each trip but also efficiencies a provider might adopt to reduce costs are taken into account, including cost efficiencies of trips when comparing like services to the local cost of private paratransit providers.

#### C. SECTION DIRECTORY:

Section 1: Amends s. 427.012, F.S., to amend membership of the TD Commission. Specifies requirements for commissioners. Provides for ex officio, nonvoting advisors to the Commission. Requires each appointed Commission candidate, prior to accepting the appointment, to undergo a security background investigation. Provides for creation of technical advisory committees.

Section 2: Amends s. 427.013, F.S., to require the Commission to develop equitable funding methodology or formula. Provides some criteria.

Section 3: Provides an effective date of July 1, 2006.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

#### 1. Revenues:

None.

#### 2. Expenditures:

DOT may be responsible for costs associated with the required background screening of a candidate prior to appointment to the Commission.

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Candidates for the Commission may be responsible for costs associated with the required background screening prior to appointment to the Commission.

D. FISCAL COMMENTS:

None.

### III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This mandates provision is not applicable to HB 487 because the legislation does not require counties or municipalities to expend local funds or to raise local funds, nor does it reduce their state revenue-sharing.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The Commission has sufficient rulemaking authority to implement the provisions of HB 487.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

### IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

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1                   A bill to be entitled

2       An act relating to the Commission for the Transportation  
3       Disadvantaged; amending s. 427.012, F.S.; revising the  
4       membership of the commission; establishing term limits;  
5       directing each member of the commission to serve without  
6       regional bias; providing qualifications for appointment to  
7       membership on the commission; providing for nonvoting  
8       advisory members; requiring candidates for appointment to  
9       the commission to meet certain standards for background  
10      screening; requiring the Department of Transportation to  
11      inform the commission if a candidate fails to meet the  
12      screening standards; providing that costs of screening be  
13      borne by the department or the candidate for appointment;  
14      authorizing the commission to appoint technical advisory  
15      committees; amending s. 427.013, F.S.; requiring the  
16      commission to develop an allocation methodology to  
17      equitably distribute transportation funds under the  
18      control of the commission to counties, community  
19      transportation coordinators, or other entities providing  
20      services to the transportation disadvantaged; providing an  
21      effective date.

22  
23   Be It Enacted by the Legislature of the State of Florida:

24  
25       Section 1.   Section 427.012, Florida Statutes, is amended  
26   to read:

27       427.012   The Commission for the Transportation  
28   Disadvantaged.--There is created the Commission for the

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29 Transportation Disadvantaged in the Department of  
30 Transportation.

31 (1) The commission shall consist of seven members, all of  
32 whom shall be appointed by the Governor.

33 (a) Five of the members must have significant experience  
34 in the operation of a business and it is the intent of the  
35 Legislature that, when making an appointment, the Governor  
36 select persons who reflect the broad diversity of the business  
37 community in this state, as well as the racial, ethnic,  
38 geographical, and gender diversity of the population of this  
39 state.

40 (b) Two of the members must have a disability and use the  
41 transportation disadvantaged system.

42 (c) Each member shall represent the needs of the  
43 transportation disadvantaged throughout the state. A member may  
44 not subordinate the needs of the transportation disadvantaged in  
45 general in order to favor the needs of others residing in a  
46 specific location in the state.

47 (d) Each member shall be appointed to a term of 4 years. A  
48 member may be reappointed for one additional 4-year term.

49 (e) A member must be a resident of the state and a  
50 registered voter.

51 (f) The Secretary of Transportation, the Secretary of  
52 Children and Family Services, the director of Workforce  
53 Innovation, the executive director of the Department of  
54 Veterans' Affairs, the Secretary of Elderly Affairs, the  
55 Secretary of Health Care Administration, the director of the  
56 Agency for Persons with Disabilities, and an elected local

57 government official who is appointed by the Governor, or a  
58 designee of each, shall serve as ex officio, nonvoting advisors  
59 to the commission.

60 (g) A member may not, within the 5 years immediately  
61 before his or her appointment, or during his or her term on the  
62 commission, have or have had a financial relationship with, or  
63 represent or have represented as a lobbyist as defined in s.  
64 11.045, the following:

- 65 1. A transportation operator;
- 66 2. A community transportation coordinator;
- 67 3. A metropolitan planning organization;
- 68 4. A designated official planning agency;
- 69 5. A purchaser agency;
- 70 6. A local coordinating board;
- 71 7. A broker of transportation; or
- 72 8. A provider of transportation services. ~~the following~~

73 ~~members:~~

74 ~~(a) The secretary of the Department of Transportation or~~  
75 ~~the secretary's designee.~~

76 ~~(b) The secretary of the Department of Children and Family~~  
77 ~~Services or the secretary's designee.~~

78 ~~(c) The Commissioner of Education or the commissioner's~~  
79 ~~designee.~~

80 ~~(d) The director of the Agency for Workforce Innovation or~~  
81 ~~the director's designee.~~

82 ~~(e) The executive director of the Department of Veterans'~~  
83 ~~Affairs or the executive director's designee.~~

84 ~~(f) The secretary of the Department of Elderly Affairs or~~

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~~the secretary's designee.~~

~~(g) The director of the Agency for Health Care  
Administration or the director's designee.~~

~~(h) A representative of the Florida Association for  
Community Action, who shall serve at the pleasure of that  
association.~~

~~(i) A representative of the Florida Transit Association,  
who shall serve at the pleasure of that association.~~

~~(j) A person over the age of 60 who is a member of a  
recognized statewide organization representing elderly  
Floridians. Such person shall be appointed by the Governor to  
represent elderly Floridians and shall be appointed to serve a  
term of 4 years.~~

~~(k) A handicapped person who is a member of a recognized  
statewide organization representing handicapped Floridians. Such  
person shall be appointed by the Governor to represent  
handicapped Floridians and shall be appointed to serve a term of  
4 years.~~

~~(l) Two citizen advocate representatives who shall be  
appointed by the Governor for a term of 4 years, one  
representing rural citizens and one representing urban citizens.~~

~~(m) A representative of the community transportation  
coordinators. Such person shall be appointed by the Governor to  
represent all community transportation coordinators and shall be  
appointed to serve a term of 4 years.~~

~~(n) One member of the Early Childhood Council. Such person  
shall be appointed by the Governor to represent maternal and  
child health care providers and shall be appointed to serve a~~

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113 | ~~term of 4 years.~~

114 |     ~~(e) Two representatives of current private for-profit or~~  
115 | ~~private not-for-profit transportation operators each of which~~  
116 | ~~have a minimum of 5 years of continuous experience operating a~~  
117 | ~~broad-based system of ambulatory and wheelchair/stretchers type~~  
118 | ~~transportation, utilizing not less than 50 vehicles and~~  
119 | ~~including dispatch and scheduling responsibilities. Such persons~~  
120 | ~~shall be appointed by the Commissioner of Agriculture to serve a~~  
121 | ~~term of 4 years.~~

122 |     ~~(p) Four representatives of current private for-profit or~~  
123 | ~~private not-for-profit transportation operators, each of which~~  
124 | ~~having a minimum of 5 years of continuous experience operating a~~  
125 | ~~broad-based system of ambulatory and wheelchair or stretchers~~  
126 | ~~type transportation, utilizing not less than 50 vehicles, and~~  
127 | ~~including dispatch and scheduling responsibilities. Such persons~~  
128 | ~~shall be appointed by the Commissioner of Agriculture to serve a~~  
129 | ~~term of 4 years.~~

130 |     ~~(q) Six citizens representing the nontransportation~~  
131 | ~~business community of the state, three members appointed by the~~  
132 | ~~President of the Senate and three members appointed by the~~  
133 | ~~Speaker of the House of Representatives.~~

134 |     (2) The chairperson shall be appointed by the Governor and  
135 | the vice chairperson of the commission shall be elected annually  
136 | from the membership of the commission.

137 |     (3) Members of the commission shall serve without  
138 | compensation but shall be allowed per diem and travel expenses,  
139 | as provided in s. 112.061.

140 |     (4) The commission shall meet at least quarterly, or more



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frequently at the call of the chairperson. ~~Five~~ Nine members of the commission constitute a quorum, and a majority vote of the members present is necessary for any action taken by the commission.

(5) The Governor may remove any member of the commission for cause.

(6) Each candidate for appointment to the commission must, before accepting the appointment, undergo background screening under s. 435.04 by filing with the Department of Transportation a complete set of fingerprints taken by an authorized law enforcement agency. The fingerprints must be submitted to the Department of Law Enforcement for state processing, and that department shall submit the fingerprints to the Federal Bureau of Investigation for federal processing. The Department of Transportation shall screen the background results and inform the commission of any candidate who does not meet level 2 screening standards. A candidate who has not met level 2 screening standards may not be appointed to the commission. The cost of the background screening may be borne by the Department of Transportation or the candidate.

(7)~~(6)~~ The commission shall appoint an executive director who shall serve under the direction, supervision, and control of the commission. The executive director, with the consent of the commission, shall employ such personnel as may be necessary to perform adequately the functions of the commission within budgetary limitations. ~~All~~ Employees of the commission are exempt from the Career Service System.

(8) The commission shall appoint a technical advisory

169 committee that includes representatives of private paratransit  
170 providers. The committee shall advise the commission on issues  
171 of importance to the state, including information, advice, and  
172 direction regarding the coordination of services for the  
173 transportation disadvantaged. The commission may appoint other  
174 technical advisory committees whose members may include  
175 representatives of community transportation coordinators;  
176 metropolitan planning organizations; regional planning councils;  
177 experts in insurance, marketing, economic development, or  
178 financial planning; and persons who use transportation for the  
179 transportation disadvantaged, or their relatives, parents,  
180 guardians, or service professionals who tend to their needs.

181 ~~(9)~~~~(7)~~ The commission is assigned to the office of the  
182 secretary of the Department of Transportation for administrative  
183 and fiscal accountability purposes, but it shall otherwise  
184 function independently of the control, supervision, and  
185 direction of the department.

186 ~~(10)~~~~(8)~~ The commission shall develop a budget pursuant to  
187 chapter 216. The budget is not subject to change by the  
188 department staff after it has been approved by the commission,  
189 but it shall be transmitted to the Governor, as head of the  
190 department, along with the budget of the department.

191 Section 2. Subsection (12) of section 427.013, Florida  
192 Statutes, is amended to read:

193 427.013 The Commission for the Transportation  
194 Disadvantaged; purpose and responsibilities.--The purpose of the  
195 commission is to accomplish the coordination of transportation  
196 services provided to the transportation disadvantaged. The goal

197 of this coordination shall be to assure the cost-effective  
198 provision of transportation by qualified community  
199 transportation coordinators or transportation operators for the  
200 transportation disadvantaged without any bias or presumption in  
201 favor of multioperator systems or not-for-profit transportation  
202 operators over single operator systems or for-profit  
203 transportation operators. In carrying out this purpose, the  
204 commission shall:

205       (12) (a) Have the authority to apply for and accept funds,  
206 grants, gifts, and services from the Federal Government, state  
207 government, local governments, or private funding sources.  
208 Applications by the commission for local government funds shall  
209 be coordinated through the appropriate coordinating board. Funds  
210 acquired or accepted under this subsection shall be administered  
211 by the commission and shall be used to carry out the  
212 commission's responsibilities.

213       (b) Develop an allocation methodology or formula that  
214 equitably distributes all funds, including Medicaid nonemergency  
215 transportation funds, under the control of the commission to  
216 compensate counties, community transportation coordinators, or  
217 other entities providing transportation disadvantaged services.  
218 The formula shall consider not only the actual costs of each  
219 trip provided for the transportation disadvantaged but also  
220 efficiencies that a provider might adopt to reduce costs,  
221 including cost efficiencies of trips when comparing like  
222 services to the local cost of private paratransit providers.

223       Section 3. This act shall take effect July 1, 2006.